

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

| | | |
|---------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 1:05CR175 RWS |
| |) | |
| JUAN DE JESUS ABARCA, |) | |
| |) | |
| Defendant. |) | |

ORDER

This matter is before the Court on defendant Abarca's motion to suppress evidence and statements⁰.

Pursuant to 28 U.S.C. § 636(b), the motion was referred to United States Magistrate Judge Lewis M. Blanton.

Judge Blanton held an evidentiary hearing on January 20, 2006. On May 9, 2006, Judge Blanton issued his Report and Recommendation that defendant's motion be denied. On May 22, 2006, defendant filed his general objections to Judge Blanton's recommendations.

I have conducted a de novo review of the evidentiary hearing (document 27). I have also reviewed defendant's motion to suppress evidence (document 19), defendant's memorandum in support of defendant's motion to suppress evidence and statements (document 30), the government's response (document 33), the

supplement to government's response to defendant's memorandum in support of motion to suppress (document 35) and defendant's reply memorandum in support of defendant's motion to suppress evidence and statements (document 36).

After my de novo review of the evidentiary hearing and the legal memoranda, I adopt the thoughtful and thorough reasoning of Magistrate Judge Blanton.

Specifically I find that defendant Abarca's consent to search the vehicle and its contents was voluntary.

I also find that Abarca shows no lack of understanding English rather the record clearly establishes that Abarca understands and speaks English fluently.

Finally I adopt the thorough reasoning of Judge Blanton that Abarca did not make a clear, unequivocal, unambiguous assertion of his right to counsel.


As a result of my de novo review and the resulting finding defendant Abarca's motion to suppress evidence and statements is denied.

Accordingly,

IT IS HEREBY ORDERED that the objections to the United States Magistrate Judge's Report and Recommendation are denied.

IT IS FURTHER ORDERED that based on my de novo review of the record the United States Magistrate Judge's Report and Recommendation is **SUSTAINED, ADOPTED, and INCORPORATED** herein and the motion to

suppress evidence is hereby **DENIED**.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 14th day of June, 2006.